

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Yanjiao Chen	Team: Team # 3	CCRB Case #: 201210615	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/18/2012 , Sunday, 08/12/2012 2:00 AM	Location of Incident: Farmers Boulevard and Baisley Boulevard	Precinct: 113	18 Mo. SOL 2/12/2014	EO SOL 2/12/2014	
Date/Time CV Reported Mon, 08/13/2012 3:47 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 08/16/2012 1:44 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Matthew Lewis	25652	941054	113 PCT
2. SGT Aaron Klein	02374	935119	113 PCT
3. POM Thomas Reo	28411	946153	113 PCT
4. POM James Weibert	29343	945343	113 PCT
5. An officer			113 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jason Zummo	11153	939739	113 PCT
2. POM Matthew Tiernan	24019	946325	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Aaron Klein	Abuse: Sgt. Aaron Klein supervised the stop of the vehicle of which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM James Weibert	Force: PO James Weibert pointed his gun at § 87(2)(b)	
C.POM Thomas Reo	Force: PO Thomas Reo pointed his gun at § 87(2)(b)	
D. An officer	Discourtesy: An officer spoke rudely to § 87(2)(b)	
E.POM James Weibert	Abuse: PO James Weibert searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
F. An officer	Abuse: An officer damaged § 87(2)(b)'s property.	
§ 87(4-b) § 87(2)(g)		

Case Summary

§ 87(2)(b) filed this complaint, on behalf of § 87(2)(b) with the Internal Affairs Bureau via telephone on August 13, 2012, generating IAB Log No. 12-43185. The aforementioned complaint was forwarded to the CCRB on August 16, 2012. § 87(2)(b) did not witness this incident.

On August 12, 2012, § 87(2)(b) was driving with his friend § 87(2)(b) when he stopped at a red light at the intersection of Farmers Boulevard and Baisley Boulevard in Queens. PO James Weibert, PO Thomas Reo, Sgt. Aaron Klein, and PO Matthew Tiernan of the 113th Precinct pulled up behind him in their unmarked police vehicle. The following allegations resulted from the incident:

Allegation A: Abuse of Authority – Sgt. Aaron Klein supervised the stop of the vehicle of which § 87(2)(b) and § 87(2)(b) were occupants

Allegation B: Abuse of Authority – PO James Weibert pointed his gun at § 87(2)(b)

Allegation C: Abuse of Authority – PO Thomas Reo pointed his gun at § 87(2)(b)

§ 87(2)(g)

Allegation D: Discourtesy – An officer spoke rudely to § 87(2)(b)

§ 87(2)(g)

Allegation E: Abuse of Authority – PO James Weibert searched the vehicle of which § 87(2)(b) and § 87(2)(b) were occupants

§ 87(2)(g)

Allegation F: Abuse of Authority – An officer damaged § 87(2)(b)'s property

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

On March 4, 2013, this case was reassigned from Investigator Gregory Joss to the undersigned investigator.

Results of Investigation

Civilian Statement

Victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of the incident. He is a black man who is 5'7" tall, weighs 140 pounds, and has black hair and brown eyes.

CCRB Statement

§ 87(2)(b) was interviewed at the § 87(2)(b) at Riker's Island on October 19, 2012 (enc. B-1 – B-6).

On August 12, 2012, at approximately 2 a.m., at the intersection of Farmers Boulevard and Baisley Boulevard in Queens, § 87(2)(b) was driving a four door tan 2002 Audi A6 3.0 with New York State license plate number § 87(2)(b), which belonged to his sister, § 87(2)(b). The two back windows had illegal 20% tints. § 87(2)(b) was on his way to drop off his friend, § 87(2)(b) who was also in the car, and stopped at the red light at the intersection of Farmers Boulevard and Baisley Boulevard.

He observed an unmarked blue Crown Victoria vehicle with tinted windows, occupied by three to four unidentified plainclothes officers pull up right behind him with their police lights flashing. As the officers exited their vehicle, § 87(2)(b) had already rolled his window down and placed his hands on the steering wheel. Neither § 87(2)(b) nor § 87(2)(b) were on the phone or reached down to the car floor.

One of the officers ordered § 87(2)(b) two to three times to "get the fuck out of the car." (The investigation determined that it was actually two officers, PO Thomas Reo and PO James Weibert of the 113th Precinct, identified via the investigation, who interacted directly with § 87(2)(b). Therefore these officers will be referred to as PO Reo and PO Weibert for the rest of the summary.)

PO Reo and PO Weibert had drawn their guns and pointed it at § 87(2)(b) who inquired about what he had done to warrant this stop. Either PO Reo or PO Weibert (the investigation could not determine who) did not reply but again stated "get the fuck out of the car." § 87(2)(b) complied and either PO Reo or PO Weibert threw him down on the ground. He then stated "You know what you did, you like to run on us," placed § 87(2)(b) in handcuffs, and took his identification. Neither PO Reo or PO Weibert mentioned anything about § 87(2)(b) fitting a description or having an active warrant.

After being transported to the 113th Precinct stationhouse, § 87(2)(b) was issued a summons for § 87(2)(b) regarding an incident that occurred on September 12, 2012. (The investigation determined that the date of occurrence for the incident was July 18, 2012.) When questioned about the July 18, 2012 incident listed on his arrest report, § 87(2)(b) was unable to recall what had occurred on that date or if he had interacted with any police officers. When asked whether he had fled from the police within the past six months, § 87(2)(b) denied ever doing such.

§ 87(2)(b) stated that the tan Audi belonged to his sister, § 87(2)(b) from whom he borrowed the vehicle once or twice a month. § 87(2)(b) did not witness a vehicle search at the intersection of Farmers Boulevard and Baisley Boulevard, or at the 113th Precinct stationhouse. His niece, § 87(2)(b) retrieved the vehicle from the stationhouse and noticed that the car had been searched and damaged. The seats had been moved, some compartments were broken, and his sister's belongings were scattered all over the car. § 87(2)(b) stated that prior to the incident, everything in the car worked and nothing was damaged.

Attempts to Conduct Photo Array

The investigator tried to reach § 87(2)(b) three times between July 3 and July 8, 2013, to schedule a single shot officer photo viewing. No voice messages were left because the option was not available. A please call letter was sent to § 87(2)(b) on July 3, 2013, which has not been returned to the CCRB by the United States Postal Service. A search of the New York City Department of Correction Inmate Lookup Service, conducted on July 3, 2013, confirmed that § 87(2)(b) was not incarcerated during these contact attempts.

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is the complainant for this case, however she did not witness incident. § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

CCRB Statement

On August 21, 2012, § 87(2)(b) provided a phone statement to Inv. Joss (enc.) regarding the damage done to her vehicle.

§ 87(2)(b) stated that the tan Audi's passenger door no longer opens, the panel beneath the steering wheel had been ripped off, every compartment was open and their contents thrown around the car. She couldn't find her registration paperwork till after searching through the interior. The entire back seat was ripped out of the car and thrown back in. In the trunk, the wires were pulled out, and the contents thrown around. The car also makes a noise whenever it is driven it. § 87(2)(b) did state that the tints on her car are illegal as she has been ticketed before for them.

Attempts to Contact § 87(2)(b)

Investigator Joss called § 87(2)(b) on March 4, 2013, to which § 87(2)(b) responded by calling the CCRB on the same day and provided a phone statement, but nothing substantial was said. This case was at that time in the process of being reassigned, so Inv. Joss informed § 87(2)(b) that the newly assigned investigator would reach out to him soon. The undersigned investigator tried contacting § 87(2)(b) four more times via phone between March 5 and March 21, 2013, leaving voice messages each time. Two please call letters had been sent on February 20 and March 4, 2012, of which only the first letter was returned to the CCRB by the United States Postal Service. A search of the New York City Department of Correction Inmate Lookup Service, conducted on May 21, 2013, revealed that § 87(2)(b) was not incarcerated. The undersigned has never been able to reach § 87(2)(b) nor has he attempted to contact the CCRB after his call on March 4, 2013, therefore, § 87(2)(b)'s statement was not taken for this case.

NYPD Statements:

Subject Officer: PO JAMES WEIBERT

- PO Weibert was § 87(2)(b) old at the time of the incident. He is a white man, who is 5'10" tall, weighs 190 pounds, and has brown hair and blue eyes.

- *On the day of the incident, PO Weibert worked in plainclothes, between the hours of 5:30 p.m. on August 11, 2012, and 2:05 a.m. on August 12, 2012. He was assigned to 113th Precinct's Anti-Crime unit with PO Thomas Reo, PO Matthew Tiernan, and Sgt. Aaron Klein in an unmarked vehicle.*
- *PO Weibert has since been promoted to Sergeant and transferred to the 83rd Precinct.*

Memo Book

PO Weibert's memo book entries for this incident (enc. C-1 – C-2) state that at an unrecorded time, "1 car stopped baisley and farmers, 1 under for § 87(2)(b), PO Zummo."

CCRB Statement

PO Weibert was interviewed at the CCRB on April 18, 2013 (enc. C-3 – C-4).

PO Weibert and his team had previously encountered § 87(2)(b) and the vehicle from this complaint twice. The first time was sometime in the beginning of 2012, which the investigation determined to be January 2012, when PO Weibert, PO Tiernan, and Sgt. Klein had pursued the vehicle because it had made a number of traffic violations. However the vehicle successfully fled from PO Weibert, who was able to only get a basic description of the car – tan Audi with tinted rear windows, and the driver – black male with cornrows. PO Weibert was not involved in the second incident, which the investigation determined to have occurred on July 18, 2012, with this civilian vehicle, but PO Matthew Lewis and PO Tiernan were. They obtained the vehicle's license plate number before the vehicle again fled from police pursuit. An open complaint, UF-61, was created for the latter incident, and since then, PO Weibert and his team have been searching for this vehicle.

On August 12, 2012, at around 2 a.m., Sgt. Klein observed the tan Audi parked at the corner of Baisley Boulevard and Farmer's Boulevard. The investigation determined that Lt. Klein said out loud "there's the Audi," as PO Weibert, PO Tiernan, and PO Reo all knew that this vehicle had fled from police pursuit twice before. Therefore, PO Weibert pulled the unmarked vehicle in front of the tan Audi to prevent it from fleeing again. PO Weibert and PO Reo approached the driver's side with their weapons pointed at § 87(2)(b) they opened the car door, and stated "get out of the vehicle and get on the ground." § 87(2)(b) was compliant, and once on the ground, PO Weibert and PO Reo handcuffed him and searched him.

As they had been approaching the vehicle, PO Weibert observed § 87(2)(b) take his hands off of the steering wheel, and physically dip down - making a furtive movement that led PO Weibert to search the lunge-able and grab-able areas. He searched the driver's seat, underneath it, around it, as well as the floor of the back seat but found nothing. PO Weibert could not recall whether the vehicle's interior was damaged, but stated that the exterior was in poor condition – beat up, with dents, and a number of scratches. PO Weibert could not recall whether PO Reo, PO Tiernan, or Sgt. Klein also searched the car.

During the interaction, PO Weibert did not say "get the fuck out of the car," or use any profanity towards § 87(2)(b). He could not recall whether Sgt. Klein, PO Reo, or PO Tiernan did so either. § 87(2)(b) did not make any verbal statements to the officers, and he was compliant throughout the incident. PO Weibert, PO Tiernan, Sgt. Klein, and PO Lewis, who was called to the scene later, all recognized § 87(2)(b) from previous encounters.

Sgt. Klein and PO Tiernan had been dealing with the passenger in the vehicle, § 87(2)(b) who had an active warrant was arrested and transported to the 113th Precinct stationhouse.

Subject Officer: PO THOMAS REO

- *PO Reo was § 87(2)(b) old at the time of the incident. He is a white man, who is 6'2" tall, weighs 200 pounds, and has black hair and green eyes.*
- *On the day of the incident, PO Reo worked between the hours on 7:30 p.m. of August 11, 2012, to 4:05 a.m. on August 12, 2012, in plainclothes. He was assigned to the Anti-Crime unit with PO Weibert and Sgt. Klein, in an unmarked vehicle.*

Memo Book

PO Reo's memo book entries for this incident (enc. D-1 – D-3) state verbatim that "at 2:45 a.m., 1 under Baisley and Farmers, § 87(2)(b) § 87(2)(b) (Zummo)."

CCRB Statement

PO Reo was interviewed at the CCRB on May 10, 2013 (enc. D-4 – D-6). § 87(2)(g)

On August 12, 2012, at around 2 a.m., Sgt. Klein observed the tan Audi, stating that it was the vehicle wanted from prior incidents. PO Weibert, made a U-turn and pulled up behind the tan Audi to conduct a felony car stop. PO Reo was the only officer who had not dealt with this vehicle on prior occasions.

PO Reo pointed his gun at, and commanded § 87(2)(b) to "shut the car off, get out of the car, and get on the ground." He remembered PO Weibert also making verbal commands, but could not recall specifically what. PO Reo never recalled seeing § 87(2)(b) make any furtive movements when he and PO Weibert approached the tan Audi. After handcuffing § 87(2)(b) PO Reo brought him to the RMP where he asked for § 87(2)(b)'s name and information. It was at that point that PO Reo remembered having arrested § 87(2)(b) before. PO Reo and § 87(2)(b) waited at the RMP until additional units arrived to transport § 87(2)(b) to the 113th Precinct stationhouse.

PO Reo never used profanity when interacting with § 87(2)(b) nor could he recall any party using profanity during the incident. He described the tan Audi's exterior as not being in good condition at all, and stated that he never searched the car nor did he observe the interior. PO Reo could not recall who searched the vehicle, or which officer brought it back to the stationhouse.

Subject Officer: SGT. AARON KLEIN

- *Sgt. Klein was § 87(2)(b) old at the time of the incident. He is a white man, who is 5'11" tall, weighs 205 pounds, and has brown hair and hazel eyes.*
- *On the day of the incident, Sgt. Klein was assigned to supervise the 113th Precinct's Anti-Crime unit with PO James Weiberg, PO Matthew Tiernan, and PO Thomas Reo. He worked between the hours of 7:26 p.m. on August 11, 2012, and 4:10 a.m. on August 12, 2012, was in uniform, and drove in unmarked vehicle #318.*
- *Sgt. Klein has since been promoted to Lieutenant and transferred to Transit Bureau District 34.*

Memo Book

Sgt. Klein's memo book entries regarding this incident (enc. E-1 – E-2) state verbatim "that at 2:05 a.m., one car stopped on the corner of Baisley and Farmers. At 2:10 a.m., two under PO Zummo Baisly and Farmers fast § 87(2)(b)." ."

CCRB Statement

Sgt. Klein was interviewed at the CCRB on March 26, 2013 (enc. E-3 – E-5). § 87(2)(b)

(g)

Sgt. Klein had encountered this tan Audi previously in January 2012 with PO Tiernan and PO Weibert, from which he obtained the vehicle's make and color.

On August 12, 2012, at around 2 a.m., after stopping the Audi, Sgt. Klein exited the vehicle and drew his gun which he pointed towards the ground as he and PO Tiernan approached the passenger side. He explained that drawing his weapon is procedural for these types of car stops, although he did not specify which type.

Although Sgt. Klein and PO Tiernan did not recognize the driver from previous incidents, PO Lewis, who was called down to the scene, did recognize the driver as the same person from the July 2012 incident.

Sgt. Klein did not know what happened to the vehicle after it was driven to the 113th Precinct stationhouse. During the entire incident, he did not observe any officer point their firearms at either of the civilians, or hear PO Weibert or PO Reo say profanity to § 87(2)(b). One of the officers, Sgt. Klein could not recall who, searched the lunge-able areas of where § 87(2)(b) and § 87(2)(b) had been sitting, however nothing was recovered. PO Tiernan drove the vehicle back to the stationhouse.

Subject Officer: PO MATTHEW TIERNAN

- *PO Tiernan was § 87(2)(b) old at the time of the incident. He is a white man, who is 5'11" tall, weighs 245 pounds, and brown hair and hazel eyes.*
- *On the day of the incident, PO Tiernan was working on the Anti-Crime unit between the hours of 7:30 p.m. on August 11, 2012, and 4:05 a.m. on August 12, 2012. He was dressed in plainclothes, working with PO Thomas Reo and Sgt. Aaron Klein, patrolling in unmarked car #318.*

Memo Book

PO Tiernan's memo book entries regarding an incident (enc. F-1 – F-4) that occurred on July 18, 2012, states verbatim that "at 10:20 a.m., PO Tiernan was involved in a vehicle accident at 99 Ave and Farmers Blvd."

PO Tiernan's memo book entries regarding this incident (enc. F-5 – F-6) state verbatim that "at 2:05 a.m., 1 under at Farmers and Bedell (PO Tiernan stated that this was a clerical error and clarified that the latter should actually be Bainsley). At 2:10 a.m., transport vehicle to the 113th Precinct Stationhouse."

CCRB Statement

PO Tiernan was interviewed at the CCRB on March 21, 2013 (enc. F-7 – F-9). § 87(2)(b)

(g)

PO Tiernan had encountered the tan Audi of this complaint, § 87(2)(b)'s vehicle, previously on July 18, 2012, when he was partnered with PO Matthew Lewis. As he was driving past the Audi down Farmers Boulevard, PO Tiernan was able to see that the driver was a black male with corn-row braids because the driver's window was rolled down. He immediately made a U-turn to pursue the vehicle with the intentions of stopping it for the tints. However, § 87(2)(b)'s vehicle fled from PO Tiernan, while driving through stop signs and red lights. Eventually, PO Tiernan and PO Lewis's RMP was "t-boned" by another civilian vehicle at 99th Avenue and

Farmers Boulevard. PO Tiernan was able to record the Audi's full license plate number on his memo book's fly sheet.

On August 12, 2012, at around 2 a.m., PO Tiernan recognized § 87(2)(b)'s vehicle as the same one that had fled from him and PO Lewis three weeks prior. The license plate number also matched. PO Tiernan approached the passenger side of the tan Audi with his hand on his gun, but the weapon was not drawn. He saw a passenger, § 87(2)(b) sitting in the rear passenger seat, and commanded "let me see your hands." § 87(2)(b) seemed a little nervous and did not comply at first, but when PO Tiernan asked him the second time to step out of the vehicle and opened the car door, § 87(2)(b) lifted both of his arms above his head and exited the vehicle. PO Tiernan immediately handcuffed § 87(2)(b) for safety reasons as every time he or another officer has dealt with this car, the vehicle occupants have put people at risk. § 87(2)(b) kept asking "What'd I do?" to which PO Tiernan responded that they would talk soon and led him to the sidewalk. At no point did PO Tiernan draw his weapon, or use any profanity to speak with § 87(2)(b) during this incident. He did not have interaction with § 87(2)(b).

PO Tiernan recognized the driver as being the same black male from the July 18, 2012 incident. Sgt. Klein instructed PO Tiernan to drive the tan Audi back to the stationhouse. Before getting into the car, PO Tiernan had shined his flashlight throughout the car and onto the driver's seat to make sure he didn't sit on anything sharp, but that was the extent of his vehicle search. He drove the Audi back to the stationhouse, where he parked it, and turned in the keys. PO Tiernan does not know if the vehicle was searched at the stationhouse or whether it had been vouchered at any point.

Subject Officer: PO MATTHEW LEWIS

- *PO Lewis was § 87(2)(b) old on the day of the incident. He is a white man, who is 5'10", weighs 220 pounds, and has brown hair and brown eyes.*
- *On the day of the incident, PO Lewis was working in uniform, between the hours of 7:30 p.m. on August 11, 2012, and 4:05 a.m. on August 12, 2012. He was assigned to conditions, and patrolling in an unknown van, with unidentified partners.*

Memo Book

PO Lewis did not have any memo book entries pertaining to this incident (enc. G-1).

CCRB Statement

PO Lewis was interviewed at the CCRB on March 14, 2013 (enc. G-2 – G-3). § 87(2)(g)

On August 12, 2012, PO Lewis was called to the scene of the incident as it was reported that the vehicle which had fled from him on July 18, 2012, was found. PO Lewis usually works with PO Tiernan on anti-crime together with recurring individuals, and everyone from his team knew about the tan Audi from July 18, 2012. He recognized § 87(2)(b) as being the same driver from July 18, 2012, during which time, PO Lewis had been able to see § 87(2)(b) through the windshield and observe that he had dark skin, corn rows, and black hair. Because the car had medium tints on all four windows, he could only see the silhouettes of the persons inside the vehicle.

Witness Officer: PO JASON ZUMMO

- *PO Zummo was § 87(2)(b) old at the time of the incident. He is a white man who is 6'3" tall, weighs 205 pounds, and has brown hair and brown eyes.*

- *On the day of the incident, PO Zummo worked between the hours of 7:30 p.m. on August 11, 2012, and 4:05 a.m. on August 12, 2012 with PO Matthew Vorrarro on the anti-crime unit. He was not in uniform.*

Memo Book

PO Zummo's memo book entries regarding this incident (enc. G-4 –G-5) state verbatim that "at 2:10 a.m., 1 under from Baisley and Farmers, § 87(2)(b) informed by PO Lewis § 87(2)(b)." ."

Active Criminal Complaint Report

§ 87(2)(a) 160.50

Arrest Report

§ 87(2)(a) 160.50

Criminal Court Complaint

§ 87(2)(a) 160.50

CCRB Statement

PO Zummo was interviewed at the CCRB on March 7, 2013 (enc. G-6 – G-7).

On August 12, 2012, PO Zummo was called to the location later on during the incident, and did not witness any of the allegations occur.

NYPD Documents

Command Log

The entries indicate that at 2:20 a.m., § 87(2)(b) was charged with § 87(2)(b) (enc. HA-2 – HA-3).

Property Vouchers

Only § 87(2)(b)'s cell phone and \$20 cash were reported as vouchered (enc. HA-7 – HA-8).

Arrest for Incident and Disposition

- § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- As of May 24, 2013, § 87(2)(b) has not filed a Notice of Claim with the City of New York (enc. K-12), which is nine months past the 90-day filing deadline.

Civilians Criminal History

- § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilians CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (enc. A-4).
- This is the first CCRB complaint filed by § 87(2)(b) (enc. A-5).

Subject Officers CCRB History

- Sgt. Aaron Klein has been a member of the service for 8 years and there is one substantiated CCRB allegation against him (enc. A-1):
 - CCRB Case No. 201203271 in which Sgt. Klein was charged with abuse of authority. The Board recommended Charges, however the NYPD has not yet determined a disciplinary disposition.
- PO James Weibert has been a member of the service for 5 years and there are no substantiated CCRB allegations against him (enc. A-2).

- PO Thomas Reo has been a member of the service for 5 years and there are no substantiated CCRB allegations against him (enc. A-3).
- PO Matthew Lewis has been a member of the service for 7 years, and there are four substantiated CCRB allegation against him (enc. A-4 – A-5):
 - CCRB Case No. 201202903 in which PO Lewis was charged with stopping and searching a vehicle, and frisking and searching of an individual. The Board recommended Charges for all four allegations, however the NYPD has not yet determined a disciplinary disposition.

Conclusion

Identification of Subject Officers

PO Weibert, PO Reo, Sgt. Klein, and PO Tiernan all confirmed their interaction with § 87(2)(b) described the single officer who pointed the gun at him, and said profanity to him as a white man, approximately 5’6” tall, stocky/muscular build, in his early thirties, and wearing blue jeans. All of the officers present at the incident were white males in plainclothes, but none of them fit the height description. PO Weibert, PO Reo, Sgt. Klein, and PO Tiernan all exceed 5’10” in height. § 87(2)(b) could not provide any further description of this subject officer. PO Weibert and PO Reo admitted to interacting directly with § 87(2)(b) during the vehicle stop, which contradicts § 87(2)(b) s recollection of dealing with only one officer. Both PO Reo and PO Weibert admitted to pointing their guns at § 87(2)(b) therefore a gun pointed allegation is being pleaded against both. However both PO Reo and PO Weibert denied ever saying any profanity to § 87(2)(b). No single shot officer photo viewing could be conducted to confirm the identity of the subject officer who spoke profanity to § 87(2)(b) § 87(2)(g)

§ 87(2)(b) alleged that the interior of her vehicle had been severely damaged. § 87(2)(b) never observed any officer search his vehicle at the incident location or at the 113th Precinct stationhouse. His niece, § 87(2)(b) told her mother, § 87(2)(b) that when she picked up the vehicle from the stationhouse, it had evidently been searched and the interior damaged. Neither § 87(2)(b) nor § 87(2)(b) witnessed this alleged vehicle search and property damage. § 87(2)(g)

Investigative Findings and Recommendations

Allegation A: Abuse of Authority – Sgt. Aaron Klein supervised the stop of the vehicle of which § 87(2)(b) and § 87(2)(b) were occupants

Allegation B: Abuse of Authority – PO James Weibert pointed his gun at § 87(2)(b)

Allegation C: Abuse of Authority – PO Thomas Reo pointed his gun at § 87(2)(b)

§ 87(2)(b) alleged that Sgt. Aaron Klein supervised the stop of his vehicle, which was performed without justification, during which time PO Weibert and PO Reo pointed their guns at him. None of the allegations are in dispute, § 87(2)(g)

As per all of the officers’ statements, § 87(2)(b) s tan Audi had been wanted in connection to two previous incidents, but most specifically, the second incident that occurred on July 18,

2012. On that date, the Audi had successfully fled from PO Lewis and PO Tiernan in a vehicle pursuit during which the Audi committed a number of dangerous traffic violations. PO Lewis and PO Tiernan were eventually involved in an accident with another civilian vehicle. An active criminal complaint report was made for this incident which described the tan Audi's make and color, noted that it had dark tinted windows, and provided its license plate number § 87(2)(b). On August 12, 2012, after spotting the tan Audi with matching license plate number, Sgt. Klein supervised its stop. PO Weibert and PO Reo, who were sitting on the driver side of their RMP, approached § 87(2)(b) and pointed their guns at him.

In order to stop a vehicle and detain the occupants at gunpoint, an officer must have reasonable suspicion that the car's occupants were involved in criminal activity. People v. Rosario and Smith, 94A.D.2d 329; 465 N.Y.S.2d 211; 1983 N.Y. App. Div (enc. AA-1 – AA-6). It is acknowledged that if an officer is confronted with an inordinate risk in approaching a vehicle, he or she is permitted to draw a gun as an acceptable measure of self-protection.

§ 87(2)(g)

§ 87(2)(g)

Allegation D: Discourtesy – An officer spoke rudely to § 87(2)(b)

§ 87(2)(b) alleged that during the incident, an officer had said many derivations of the word “fuck” to him.

Both PO Weibert and PO Reo denied using profanity while interacting with § 87(2)(b). No other officer interacted directly with § 87(2)(b) at the beginning of the incident during which time the profanity was said. Both PO Tiernan and Sgt. Klein could not recall hearing any profanity used during the entire incident, by civilian or officer alike. As mentioned previously, neither PO Weibert or PO Reo fit the physical description that § 87(2)(b) provided for the officer who allegedly said this profanity.

§ 87(2)(g)

Allegation E: Abuse of Authority – PO James Weibert searched the vehicle of which § 87(2)(b) and § 87(2)(b) were occupants

PO Weibert recalled that at the scene, he performed a vehicle search during which he looked around the driver's seat and the vehicle floor behind the driver's seat. PO Tiernan stated that he was the one who drove § 87(2)(b)'s vehicle back to the stationhouse.

Patrol Guide procedure 218-13 (enc. AA-7 – AA-8) states that “whenever any property comes into the custody of [the NYPD], an inventory search will be conducted.”

§ 87(2)(g)

§ 87(2)(b) alleged that the interior of her vehicle had been damaged.

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

Reviewer: _____

Title/Signature	Print	Date
-----------------	-------	------